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8		RE THE
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS	
10		CALIFORNIA
11	In the Matter of the Accusation Against:	Case No. 4480
12	SAMANTHA C, TOOMER-FOSTER	
13	7251 Brentwood Blvd. #115 Brentwood, CA 94513	ACCUSATION
14	Pharmacy Technician Registration No. TCH	
15	90586	
16	Respondent.	
16 17	Respondent.	
	Respondent. Complainant alleges:	
17	Complainant alleges:	eties
17 18	Complainant alleges:	CTIES gs this Accusation solely in her official capacity
17 18 19	Complainant alleges:	gs this Accusation solely in her official capacity
17 18 19 20	Complainant alleges: PAR 1. Virginia Herold (Complainant) bring as the Executive Officer of the Board of Pharma	gs this Accusation solely in her official capacity
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17 18 19 20 21 22	Complainant alleges: PAR 1. Virginia Herold (Complainant) bring as the Executive Officer of the Board of Pharma 2. On or about April 27, 2009, the Board	gs this Accusation solely in her official capacity cy (Board), Department of Consumer Affairs, and issued Pharmacy Technician Registration ester (Respondent). The Pharmacy Technician
17 18 19 20 21 22 23	Complainant alleges: PAR 1. Virginia Herold (Complainant) bring as the Executive Officer of the Board of Pharma 2. On or about April 27, 2009, the Board Number TCH 90586 to Samantha C. Toomer-Fo	gs this Accusation solely in her official capacity cy (Board), Department of Consumer Affairs. rd issued Pharmacy Technician Registration ester (Respondent). The Pharmacy Technician mes relevant to the charges brought herein and
17 18 19 20 21 22 23 24	Complainant alleges: PAR 1. Virginia Herold (Complainant) bring as the Executive Officer of the Board of Pharma 2. On or about April 27, 2009, the Board Number TCH 90586 to Samantha C. Toomer-Formal Registration was in full force and effect at all times.	gs this Accusation solely in her official capacity cy (Board), Department of Consumer Affairs. rd issued Pharmacy Technician Registration ester (Respondent). The Pharmacy Technician mes relevant to the charges brought herein and
17 18 19 20 21 22 23 24 25	Complainant alleges: PAR 1. Virginia Herold (Complainant) bring as the Executive Officer of the Board of Pharma 2. On or about April 27, 2009, the Board Number TCH 90586 to Samantha C. Toomer-Formal Registration was in full force and effect at all time will expire on August 31, 2014, unless renewed.	gs this Accusation solely in her official capacity cy (Board), Department of Consumer Affairs. rd issued Pharmacy Technician Registration ester (Respondent). The Pharmacy Technician mes relevant to the charges brought herein and
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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

STATUTORY AND REGULATORY PROVISIONS

- 4. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.
- 5. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.
 - 6. Section 4300 of the Code states in pertinent part:
 - "(a) Every license issued may be suspended or revoked.

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7. Section 4300.1 of the Code states:

"The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license."

8. Section 4301 of the Code states in pertinent part:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

Unprofessional conduct shall include, but is not limited to, any of the following:

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"(1) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred, The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

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COSTS

9. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime)

10. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision (I) of the Code in that she was convicted of a crime substantially related to the qualifications, functions, and duties of a pharmacy technician. The circumstances of Respondent's conviction

are as follows:

- a. On or about August 19, 2011, officers of the Sacramento Sheriff's Department approached a vehicle in which Respondent was a passenger that was parked near a motel. Respondent was a registered guest at the motel. The officers determined that the driver of the vehicle was on probation and they performed a probation search of the vehicle. Pursuant to their vehicle search, the officers discovered the following items: fifteen (15) Hydrocodone pills in a plastic bindle; six (6) Clonazepam pills in a plastic bindle; and one (1) unlabeled prescription bottle containing the following items: twenty-six (26) Lorazepam pills; one (1) Hydrocodone pill; three (3) Clonazepam pills; and four (4) Diazepam pills.
- b. After performing the vehicle search, the officers performed a search of Respondent's motel room, during which they discovered a woman's purse containing the following items: one (1) zip top bag containing the following items: eleven (11) Clonazepam pills; seven (7) Diazepam pills; two (2) Lorazepam pills; and one (1) Phentermine Hydrochloride pill.
 - c. After discovering these items, the officers arrested Respondent.
 - d. Respondent did not have a valid prescription for any of the above-listed medication.
- e. On or about October 20, 2011, in Sacramento County Superior Court (Case No. 11F05884), Respondent was convicted by her plea of nolo contendere of violating Health and Safety Code section 11350 (possession of a controlled substance), a felony.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

- 1. Revoking or suspending Pharmacy Technician Registration Number TCH 90586 issued to Samantha C. Toomer-Foster;
- 2. Ordering Samantha C. Toomer-Foster to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case pursuant to Business and Professions Code section 125.3;

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1	3. Taking such other and further action as deemed necessary and proper.	
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3	DATED: 3/1/3 Jugina Jerod	
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ACCUSATION